

**STATE BOARD OF EDUCATION
ADMINISTRATIVE CODE
COMMENT/RESPONSE FORM**

This comment and response form contains comments from the July 5, 2017, meeting of the State Board of Education when the draft regulations were considered at First Discussion Level.

Topic: State Seal of Biliteracy

Meeting Date: August 2, 2017

Code Citation: N.J.A.C. 6A:8

Level: Second

Division: Division of Teaching
and Learning

Completed by: Office of Academics

Summary of Comments and Agency Responses:

The following is a summary of the comments received from State Board of Education members and the Department of Education's (Department) responses. Each commenter is identified at the end of the comment by a letter that corresponds to the following list:

- A. Mary Beth Berry, Member
State Board of Education
- B. Kathy Goldenberg, Member
State Board of Education
- C. Sylvia Sylvia, Member
State Board of Education
- D. Karan Chauhan, Permanent Student Representative
State Board of Education

1. **COMMENT:** The commenter asked whether American Sign Language (ASL) is included as a language other than English for eligibility under the State Seal of Biliteracy. **(A)**

RESPONSE: Yes. The State law that established the program, P.L. 2015, c. 303, requires ASL to be included as one of the languages eligible for the State Seal of Biliteracy program.

2. **COMMENT:** The commenter asked whether the State Seal of Biliteracy program includes cultural understanding and, if so, what type of viewpoints are presented. **(B)**

RESPONSE: One purpose of the State Seal of Biliteracy is to strengthen intergroup relationships, affirm the value of diversity, and honor the multiple cultures and languages of a community. A student who receives the State Seal of Biliteracy has met at least the Intermediate-Mid competencies of the New Jersey Student Learning Standards for world languages, which include cultural and content statements that lead to rich conversations about cultural understanding as determined at the local level.

3. **COMMENT:** The commenter asked if a student who is otherwise eligible but attends high school in a school district that does not participate in the State Seal of Biliteracy program can earn the seal. **(D)**

RESPONSE: Only students in school districts that have indicated to the Department their participation in the program may be recognized with a State Seal of Biliteracy.

4. **COMMENT:** The commenters expressed support for the State Seal of Biliteracy program and provided examples of its success in the school districts in which they live. **(B, C)**

RESPONSE: The Department thanks the commenters for the support.



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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

Second Discussion
August 2, 2017

KIMBERLEY HARRINGTON
Commissioner

TO: Members, State Board of Education

FROM: Kimberley Harrington
Commissioner

SUBJECT: N.J.A.C. 6A:8, Standards and Assessments

REASON FOR ACTION: Amendments and new rules

AUTHORITY: P.L. 2015, c. 303

SUNSET DATE: February 7, 2018

Summary

The Department of Education (Department) proposes an amendment and new rules at N.J.A.C. 6A:8, Standards and Assessments, to implement P.L. 2015, c. 303, which established the State Seal of Biliteracy to recognize high school graduates who have attained a high level of proficiency in speaking, reading, and writing in one or more foreign languages in addition to English.

Pursuant to the authorizing statute, the State Seal of Biliteracy is intended to do the following: encourage students to study languages; certify attainment of biliteracy; provide employers with a method of identifying people with language and biliteracy skills; provide universities with a method to recognize and award academic credit to applicants seeking admission; prepare students with 21st century skills; recognize and promote foreign language instruction in public schools; and strengthen intergroup relationships, affirm the value of diversity, and honor the multiple cultures and languages of a community.

The Seal of Biliteracy also has been approved in 25 other states and in Washington, D.C.

The State Seal of Biliteracy has been issued in New Jersey since 2013 via a pilot program spearheaded by New Jersey Teachers of English to Speakers of Other Languages/New Jersey Bilingual Educators (NJTESOL/NJBE) and the Foreign Language Educators of New Jersey (FLENJ). In 2013, seven school districts voluntarily participated in the program and 185 students earned the seal with 10 world languages represented. The pilot program grew to 23 school districts in 2016 with approximately 725 students earning the seal and 16 languages represented.

The following describes the proposed amendment and new rules:

Subchapter 1. General Provisions

N.J.A.C. 6A:8-1.3 Definitions

The Department proposes a definition for “State Seal of Biliteracy” to mean the designation established pursuant to P.L. 2015, c. 303 to recognize high school graduates who have attained a high level of interpretive, interpersonal, and presentational proficiency in one or more languages in addition to English. The proposed definition uses “interpretive, interpersonal, and presentational” proficiency rather than proficiency in “speaking, reading, and writing,” as included in P.L. 2015, c. 303, because the authorizing statute requires the languages eligible for the program to include American Sign Language (ASL), Latin, and Native American languages. ASL cannot be spoken, read, or written; however, an individual utilizing ASL can demonstrate interpretive, interpersonal, and presentational proficiency, which also align with the modes of communication outlined in the New Jersey Student Learning Standards for world languages.

Subchapter 5. Implementation of Graduation Requirements

N.J.A.C. 6A:8-5.3 State Seal of Biliteracy

The Department proposes N.J.A.C. 6A:8-5.3 to establish the role and responsibilities of district boards of education that elect to participate in the State Seal of Biliteracy program.

Proposed N.J.A.C. 6A:8-5.3(a) will allow a district board of education to award a State Seal of Biliteracy to any student who has met all requirements in N.J.A.C. 6A:8-5.2, High school diplomas, and demonstrates proficiency in the following: one or more world languages via an assessment approved pursuant to N.J.A.C. 6A:8-5.3(f) during the student’s next to last or final year of high school; and English language arts as set forth in N.J.A.C. 6A:8-5.1(a)6.

Proposed N.J.A.C. 6A:8-5.3(a)1i reiterates the authorizing statute’s requirement that a world language other than English includes, but is not limited to, American Sign Language, Latin, and Native American languages.

Proposed N.J.A.C. 6A:8-5.3(b) will require, beginning with the 2017-2018 school year, a district board of education that chooses to award the State Seal of Biliteracy to incorporate the process into the local graduation policy developed, adopted, and implemented pursuant to N.J.A.C. 6A:8-5.1(a), denoting participation in the voluntary program. The proposed rule also will require a district board of education choosing to participate to submit, in accordance with N.J.A.C. 6A:8-5.1(d), a copy of the local graduation policy that reflects the option for students to participate in the State Seal of Biliteracy.

Proposed N.J.A.C. 6A:8-5.3(c) will allow a district board of education to pay the costs for related assessments and transcript insignias or to charge a fee to a participating student. The proposed rule also will require a participating district board of education to include in its revised local graduation requirements whether it will cover the related costs or charge a fee.

Proposed N.J.A.C. 6A:8-5.3(d) will require a district board of education that chooses to award the State Seal of Biliteracy to do the following: provide the Department with information regarding students who qualify for the State Seal of Biliteracy pursuant to N.J.A.C. 6A:8-5.3(a); present each student who qualifies pursuant to N.J.A.C. 6A:8-5.3(a) with a Department-issued

certificate; include the Commissioner-developed insignia on the student's transcript; and maintain appropriate records to identify students who have earned the State Seal of Biliteracy.

Proposed N.J.A.C. 6A:8-5.3(e) will prohibit a district board of education from awarding a State Seal of Biliteracy to any student who does not meet the criteria in N.J.A.C. 6A:8-5.3(a) and from including the Commissioner-developed insignia on the student's transcript.

Proposed N.J.A.C. 6A:8-5.3(f) will require a list of Department-approved, nationally recognized assessments and the Statewide scores necessary for a student to satisfy the requirements for the State Seal of Biliteracy to be set by a resolution approved by the State Board of Education. The proposed rule also will allow a district board of education to administer a Department-approved, locally designed proficiency-based assessment if an approved assessment does not exist for a particular language.

Proposed N.J.A.C. 6A:8-5.3(g) reiterates the requirement in P.L. 2015, c. 303 for the Commissioner to submit to the Governor and the Legislature by September 1 of each school year a report that includes the number of students awarded the State Seal of Biliteracy in the previous school year, the languages in which the students attained proficiency, and the method(s) by which the students demonstrated proficiency.

As the Department has provided a 60-day comment period on this notice of proposal, the notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendment and new rules will have a positive social impact for the public school districts that elect to participate in the State Seal of Biliteracy program and the students who earn the seal. The program is intended to encourage students to study languages; certify attainment of biliteracy; prepare students with 21st century skills; recognize and promote foreign language instruction in public schools; and strengthen intergroup relationships, affirm the value of diversity, and honor the multiple cultures and languages of a community. The program also is intended to provide employers with a method of identifying people with language and biliteracy skills and provide universities with a method to recognize and award academic credit to applicants seeking admission.

Economic Impact

The economic impact of the proposed amendment and new rules will be minimal in terms of costs to participating school districts and students. The Department will provide school districts with the certificates to award to eligible students. Participating school districts also can decide to charge a fee to students who select to participate.

The proposed amendment and new rule could have a positive economic impact on the State since the State Seal of Biliteracy will signal to potential employers that a New Jersey high school graduate is proficient in at least one foreign language. Since the need for bilingual employees is rapidly expanding, the State Seal of Biliteracy could help employers more easily fill open jobs that require bilingual skills and also help bilingual individuals find employment.

Federal Standards Statement

There are no Federal requirements that impact the proposed amendment and new rules.

Jobs Impact

The proposed amendment and new rules will not result in the generation or loss of jobs.

Agriculture Industry Impact

The proposed amendment and new rules will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

A Regulatory Flexibility Statement is not required because the proposed amendment and new rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses. While approved private schools for students with disabilities that educate students using public funds could be considered small businesses, the proposed amendment and new rules apply only to public school districts.

Housing Affordability Impact Analysis

The proposed amendment and new rules will have an insignificant impact on the affordability of housing in New Jersey. There is an extreme unlikelihood the proposed amendment and new rules would evoke a change in the average costs associated with housing because the proposed amendment and new rules govern the State Seal of Biliteracy program in public school districts.

Smart Growth Development Impact Analysis

The proposed amendment and new rules will have an insignificant impact on smart growth. There is an extreme unlikelihood the proposed amendment and new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendment and new rules govern the State Seal of Biliteracy program in public school districts.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

N.J.A.C. 6A:8, STANDARDS AND ASSESSMENT

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SUBCHAPTER 1. GENERAL PROVISIONS

6A:8-1.3 Definitions

The following words and terms shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

“Accommodations or modifications to the Statewide assessment system” means changes in testing procedures or formats that provide students with disabilities and English language learners (ELLs) an equitable opportunity to participate in assessment and demonstrate their knowledge and skills in the areas assessed.

“ACTFL” means the American Council on the Teaching of Foreign Languages.

“Adult education assessment test” means a test approved by the United States Department of Education that is used to award a State-issued high school diploma.

“Advanced Placement courses” means courses aligned with course descriptions provided by the College Board and intended to provide students with the opportunity to complete college-level studies during secondary school.

"All students" means every student enrolled in public elementary, secondary, and adult high school education programs within the State of New Jersey, including general education students, students with disabilities, and English language learners (ELLs).

“Alternative assessment for students with disabilities” means the alternative assessment used to determine cumulative student achievement of the knowledge and skills specified by the New Jersey Student Learning Standards for students with disabilities who are unable to participate in the Statewide assessment system.

“Annual measurable objectives” or “AMOs” means the performance targets set by New Jersey in the Elementary and Secondary Education Act (ESEA) flexibility waiver approved by the United States Department of Education.

“Approved private schools for the disabled” means incorporated entities approved by the Department according to N.J.A.C. 6A:14-7.2 or 7.3 to provide special education and related services to students with disabilities who have been placed by the district board of education or charter school responsible for providing their education.

"Assessment" means a State-developed or State-approved standardized instrument or process that measures student performance levels on the New Jersey Student Learning Standards.

“Career awareness, exploration, and preparation” means instruction and programs that assist students to clarify career goals; explore career possibilities; develop employability skills; develop foundational knowledge necessary for success in the workplace; and make the transition from school to careers, including college, training, and employment.

“Career and technical education” means as defined in N.J.A.C. 6A:19-1.2.

“Charter school” means as defined in N.J.A.C. 6A:11-1.2.

“Chief school administrator” means the superintendent of schools or the administrative principal who works directly with the district board of education if there is no superintendent in the school district.

“CLEP” means College-Level Examination Program, which enables students to receive college credit by earning qualifying scores on examinations that are offered by the College Board and cover material taught in courses most students take as requirements in the first two years of college. A college usually grants the same amount of credit to students earning satisfactory scores on the CLEP examination as it grants to students successfully completing the course.

“Content equivalent” means courses or activities that include the same or equivalent knowledge and skills as found in traditionally titled courses that are required for high school graduation and are aligned with the New Jersey Student Learning Standards. The content must be taught by certified teachers, may be integrated in one or more courses, may be titled differently, or may present material in an interdisciplinary or spiral format.

“Credit” means the award for the equivalent of a class period of instruction, which meets for a minimum of 40 minutes, one time per week during the school year or as approved through N.J.A.C. 6A:8-5.1(a)2.

“Cut score” means a score on the assessment scales that demarcates the various performance levels.

“ELL” means English language learner, indicating a person who is in the process of acquiring English and has a first language other than English. ELLs sometimes are referred to as limited English proficient (LEP).

“English language development standards” means as defined in N.J.A.C. 6A:15-1.2.

“Evaluation,” formerly called “monitoring,” means the process by which the Commissioner or his or her designee evaluates the status of each school district or charter school.

"504 plan" means a written educational plan prepared by the 504 team for a 504 student.

“504 student” means a student who has a physical or mental impairment that substantially limits a major life function; has been determined eligible for services, including accommodations and modifications by the school district’s 504 team; and has a 504 plan.

“504 team” means a group of persons that makes program and placement decisions according to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and 34 CFR § 104.35(c).

“GED” means tests of General Educational Development taken in order to qualify for a State-issued high school diploma.

“Gifted and talented students” means students who possess or demonstrate high levels of ability in one or more content areas when compared to their chronological peers in the local school district and who require modifications of their educational program if they are to achieve in accordance with their capabilities.

“IEP” means individualized education program as defined in N.J.A.C. 6A:14-1.3.

“IEP team” means as defined in N.J.A.C. 6A:14-1.3.

“Indicator” means statements that further delineate the NJSLS.

“Individualized student learning opportunities” means student experiences based upon specific instructional objectives that meet or exceed the NJSLS at the high school level. Such opportunities may occur in all NJSLS and may include, but are not limited to, independent study; online learning; study-abroad programs; student exchange programs; and structured learning experiences, including, but not limited to, work-based programs, internships, apprenticeships, and service learning experiences. The opportunities shall be based on student interests and career goals.

“Instructional adaptation” means an adjustment or modification to instruction enabling students with disabilities, ELLs, or students in alternative education programs or who are gifted and talented to participate in, benefit from, and/or demonstrate knowledge and application of the NJSLS.

“Interdisciplinary connections” means integrating NJSLS and skills from one or more content areas into instruction and assessment of another content area.

“Laboratory/inquiry-based science course” means a course in which students are systematically provided with ongoing opportunities to use data drawn from or to interact directly with the natural and designed/engineered world, using tools, data collection techniques, models, and scientific concepts and principles.

“Magnet program” means a distinctive program designed to:

1. Attract students by offering a specialized curriculum based on a special theme or method of instruction; and
2. Substantially strengthen the knowledge of academic subjects and the attainment of tangible and marketable vocational, technological, and professional skills of students attending the program.

“MOPI” means the ACTFL Modified Oral Proficiency Interview, which is a standardized assessment of functional speaking ability often used to test lower proficiency ranges.

“Native language” means the language or mode of communication first learned by the student.

“New Jersey Student Learning Standards” or “NJSLS” means standards adopted by the State Board of Education on May 1, 1996, and as thereafter revised by the State Board, and the Common Core State Standards adopted by the State Board on June 16, 2010, and as thereafter revised by the State Board, that describe the knowledge and skills all New Jersey students are expected to acquire by benchmark grades in the following areas: English language arts; mathematics; science; social studies; visual and performing arts; comprehensive health and physical education; world languages; technology; and 21st career life and careers. The standards are established for the provision of a thorough and efficient education pursuant to N.J.S.A. 18A:7F-46 and as a basis for the evaluation of school districts in accordance with N.J.A.C. 6A:30.

“OPI” means the ACTFL Oral Proficiency Interview, which is a standardized assessment of functional speaking ability currently available in 37 world languages.

"Pacing guide" means a schedule that includes aligned concepts, topics and skills related to a particular curriculum to be addressed over a defined period of time. It is not a prescriptive, lock-step set of lesson plans that impede an educator's ability to exercise flexibility in meeting students' learning needs.

"PARCC assessment" means the set of assessments designed by the Partnership for Assessment of Readiness for College and Careers used to determine student achievement of knowledge and skills specified by the NJSL in English language arts and mathematics.

"Performance level" means one of several categories describing student proficiency with regard to the achievement of the NJSL.

"Personalization" means enabling students to build and strengthen relationships with peers, teachers, other staff members, families, and the community at large through multiple strategies that promote engagement and high expectations based on individual interests and aptitudes, and that are conducive to successful teaching and learning experiences.

"Personalized Student Learning Plan" means a formalized plan and process that involves students setting learning goals based on personal, academic, and career interests, beginning in the middle school grades and continuing throughout high school with the close support of adult mentors, including teachers, counselors, and parents.

"Portfolio appeals process" means an alternative assessment of proficiency for graduation established by the Commissioner, utilizing techniques and instruments other than PARCC assessments or substitute competency tests.

“Professional development” means a comprehensive, sustained, and intensive approach to improving the effectiveness of teachers, principals, and other school personnel in raising student achievement.

“Proficient” or “proficiency” means a student-achieved score at or above the cut score, which demarks a solid understanding of the content measured by an individual section of any State assessment.

“QSAC” means the Quality Single Accountability Continuum, which is used pursuant to N.J.A.C. 6A:30 to review and evaluate school district operations.

“Rehabilitation Act” means the Federal Rehabilitation Act of 1973, 29 U.S.C. §§ 701 et seq., as amended in 1992.

“Service learning experience” means a method that allows students or participants to learn and develop through active participation in thoughtfully organized activities that are conducted in and meet the needs of a community, and that help foster civic responsibility. Service learning experiences shall be coordinated with the community and with an elementary or secondary school, institution of higher education, or community-services program; shall be integrated into and enhance the school district’s academic curriculum; and shall provide structured time for students to reflect on the service experience.

“STAMP” means Standards-based Measurement of Proficiency, which is a test that is delivered, graded, and reported online, and that assesses students’ language proficiency from the “Novice-Low” to the “Intermediate-Mid” benchmark levels.

“Standards support materials” means documents published by the Department that include and elaborate on the NJSLs for preschool through grade 12 education, and that may assist in the development of local curricula.

“State Board” means the New Jersey State Board of Education.

“State-endorsed diploma” means a locally-issued document awarded to an exiting student indicating successful completion of high school graduation requirements.

“State-issued high school diploma” means a diploma issued by the State of New Jersey.

“State Seal of Biliteracy” means the designation established pursuant to P.L. 2015, c. 303 to recognize high school graduates who have attained a high level of interpretive, interpersonal, and presentational proficiency in one or more languages in addition to English.

“Structured learning experience” means as defined in N.J.A.C. 6A:19-1.2.

“Study abroad programs” means programs that enable New Jersey students to attend a high school in another country for a semester or full academic year to acquire academic and cross-cultural skills that will help them live and work in a globally interdependent world.

“Substitute competency test” means an alternative set of third-party assessments approved by the Commissioner, including, but not limited to the SAT, PSAT, ACT, ACT-Aspire, ASVAB-AFQT, or Accuplacer, that can be used to demonstrate competency in the NJSLs for students who have not demonstrated proficiency on PARCC assessments.

"Technological literacy" means students meeting NJSLS 8.1 Educational Technology, obtained through the integration of effective educational technology practices, strategies, and tools throughout all curricular areas.

"Transcript" means a document for all students exiting the public education system that describes a student's progress toward achievement of the NJSLS and other relevant experiences and achievements.

"Twenty-first century careers" means careers and occupations that have been impacted by technological and global forces and are in an ongoing state of reinvention due to technological advances and e-commerce.

"Twenty-first century themes and skills" means themes such as global awareness; financial, economic, business, and entrepreneurial literacy; civic literacy; health literacy; learning and innovation skills, including creativity and innovation, critical thinking and problem solving, and communication and collaboration; information, media, and technology skills; and life and career skills, including flexibility and adaptability, initiative and self-direction, social and cross-cultural skills, productivity and accountability, and leadership and responsibility.

SUBCHAPTER 5. IMPLEMENTATION OF GRADUATION REQUIREMENTS

6A:8-5.3 State Seal of Biliteracy

- (a) A district board of education may award a State Seal of Biliteracy to any student who has met all requirements in N.J.A.C. 6A:8-5.2 and demonstrates proficiency in the following:**
- 1. One or more world languages via an assessment approved pursuant to (f) below during the student's next to last or final year of high school; and**
 - i. Pursuant to P.L. 2015, c. 303, a foreign language other than English also shall include, but not be limited to, American Sign Language, Latin, and Native American languages.**
 - 2. English language arts as set forth in N.J.A.C. 6A:8-5.1(a)6.**
- (b) Beginning with the 2017-2018 school year, a district board of education that chooses to award the State Seal of Biliteracy shall incorporate the process into the local graduation policy developed, adopted, and implemented pursuant to N.J.A.C. 6A:8-5.1(a), denoting participation in the voluntary program. A district board of education choosing to participate shall submit, in accordance with N.J.A.C. 6A:8-5.1(d), a copy of the local graduation policy that reflects the option for students to participate in the State Seal of Biliteracy.**
- (c) A district board of education may pay the costs for related assessments and transcript insignias or may charge a fee to a participating student. A participating district board of education shall include in its revised local graduation requirements whether it will cover the related costs or charge a fee.**
- (d) A district board of education that chooses to award the State Seal of Biliteracy shall do the following:**
- 1. Provide the Department with information regarding students who qualify for the State Seal of Biliteracy pursuant to (a) above;**
 - 2. Present each student who qualifies pursuant to (a) above with a Department-issued certificate;**

3. **Include the Commissioner-developed insignia on the student's transcript;
and**
 4. **Maintain appropriate records to identify students who have earned the State Seal of Biliteracy.**
- (e) **A district board of education shall not award a State Seal of Biliteracy to any student who does not meet the criteria in (a) above and shall not include the Commissioner-developed insignia on the student's transcript.**
- (f) **A list of Department-approved, nationally recognized assessments and the Statewide scores necessary for a student to satisfy requirements for the State Seal of Biliteracy shall be set by a resolution approved by the State Board of Education.**
 1. **If an approved assessment, pursuant to (f) above, does not exist for a particular language, a district board of education may administer a Department-approved, locally designed proficiency-based assessment.**
- (g) **The Commissioner shall submit to the Governor and the Legislature by September 1 of each school year a report that includes the number of students awarded the State Seal of Biliteracy in the previous school year, the languages in which the students attained proficiency, and the method(s) by which the students demonstrated proficiency.**